



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB2475

Introduced 2/20/2009, by Rep. Constance A. Howard

SYNOPSIS AS INTRODUCED:

775 ILCS 5/1-103

from Ch. 68, par. 1-103

775 ILCS 5/2-103.5 new

Amends the Illinois Human Rights Act. Provides that it is a civil rights violation for any employer, employment agency, or labor organization to refuse to hire a qualified ex-offender solely because the qualified ex-offender has previously been convicted of one or more criminal offenses, or by reason of a finding of lack of good moral character when the finding is based solely upon the fact that the qualified ex-offender has previously been convicted of one or more criminal offenses. Contains provisions regarding factors an employer, employment agency, or labor organization can consider when making an employment determination relating to a person with a criminal record; exceptions to the prohibited conduct; new definitions; and other matters.

LRB096 08568 KTG 18691 b

1 AN ACT concerning human rights.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Human Rights Act is amended by
5 changing Section 1-103 and by adding Section 2-103.5 as
6 follows:

7 (775 ILCS 5/1-103) (from Ch. 68, par. 1-103)

8 Sec. 1-103. General Definitions. When used in this Act,
9 unless the context requires otherwise, the term:

10 (A) Age. "Age" means the chronological age of a person who
11 is at least 40 years old, except with regard to any practice
12 described in Section 2-102, insofar as that practice concerns
13 training or apprenticeship programs. In the case of training or
14 apprenticeship programs, for the purposes of Section 2-102,
15 "age" means the chronological age of a person who is 18 but not
16 yet 40 years old.

17 (B) Aggrieved Party. "Aggrieved party" means a person who
18 is alleged or proved to have been injured by a civil rights
19 violation or believes he or she will be injured by a civil
20 rights violation under Article 3 that is about to occur.

21 (C) Charge. "Charge" means an allegation filed with the
22 Department by an aggrieved party or initiated by the Department
23 under its authority.

1 (D) Civil Rights Violation. "Civil rights violation"
2 includes and shall be limited to only those specific acts set
3 forth in Sections 2-102, 2-103, 2-105, 3-102, 3-102.1, 3-103,
4 3-104, 3-104.1, 3-105, 3-105.1, 4-102, 4-103, 5-102, 5A-102,
5 6-101, and 6-102 of this Act.

6 (E) Commission. "Commission" means the Human Rights
7 Commission created by this Act.

8 (F) Complaint. "Complaint" means the formal pleading filed
9 by the Department with the Commission following an
10 investigation and finding of substantial evidence of a civil
11 rights violation.

12 (G) Complainant. "Complainant" means a person including
13 the Department who files a charge of civil rights violation
14 with the Department or the Commission.

15 (G-1) Criminal Offense. "Criminal offense" means a
16 violation of a municipal ordinance, an offense as defined in
17 Section 5-1-15 of the Unified Code of Corrections, or a
18 substantially similar law of any other jurisdiction.

19 (H) Department. "Department" means the Department of Human
20 Rights created by this Act.

21 (I) Disability. "Disability" means a determinable physical
22 or mental characteristic of a person, including, but not
23 limited to, a determinable physical characteristic which
24 necessitates the person's use of a guide, hearing or support
25 dog, the history of such characteristic, or the perception of
26 such characteristic by the person complained against, which may

1 result from disease, injury, congenital condition of birth or
2 functional disorder and which characteristic:

3 (1) For purposes of Article 2 is unrelated to the
4 person's ability to perform the duties of a particular job
5 or position and, pursuant to Section 2-104 of this Act, a
6 person's illegal use of drugs or alcohol is not a
7 disability;

8 (2) For purposes of Article 3, is unrelated to the
9 person's ability to acquire, rent or maintain a housing
10 accommodation;

11 (3) For purposes of Article 4, is unrelated to a
12 person's ability to repay;

13 (4) For purposes of Article 5, is unrelated to a
14 person's ability to utilize and benefit from a place of
15 public accommodation.

16 (I-1) Qualified ex-offender. "Qualified ex-offender" means
17 a person who has been convicted of violating a municipal
18 ordinance, an offense as defined in Section 5-1-15 of the
19 Unified Code of Corrections, or substantially similar laws of
20 any other jurisdiction where at least 7 years have elapsed
21 since the completion of the person's sentence or term of
22 supervision for his or her last conviction. "Qualified
23 ex-offender" does not include (i) a person who is currently
24 charged with an offense as defined in Section 5-1-15 of the
25 Unified Code of Corrections, (ii) a person required to register
26 under the Sex Offender Registration Act, the Arsonist

1 Registration Act, or the Child Murderer and Violent Offender
2 Against Youth Registration Act or (iii) a person who has been
3 convicted of committing or attempting to commit first degree
4 murder.

5 (J) Marital Status. "Marital status" means the legal status
6 of being married, single, separated, divorced or widowed.

7 (J-1) Military Status. "Military status" means a person's
8 status on active duty in or status as a veteran of the armed
9 forces of the United States, status as a current member or
10 veteran of any reserve component of the armed forces of the
11 United States, including the United States Army Reserve, United
12 States Marine Corps Reserve, United States Navy Reserve, United
13 States Air Force Reserve, and United States Coast Guard
14 Reserve, or status as a current member or veteran of the
15 Illinois Army National Guard or Illinois Air National Guard.

16 (K) National Origin. "National origin" means the place in
17 which a person or one of his or her ancestors was born.

18 (L) Person. "Person" includes one or more individuals,
19 partnerships, associations or organizations, labor
20 organizations, labor unions, joint apprenticeship committees,
21 or union labor associations, corporations, the State of
22 Illinois and its instrumentalities, political subdivisions,
23 units of local government, legal representatives, trustees in
24 bankruptcy or receivers.

25 (M) Public Contract. "Public contract" includes every
26 contract to which the State, any of its political subdivisions

1 or any municipal corporation is a party.

2 (N) Religion. "Religion" includes all aspects of religious
3 observance and practice, as well as belief, except that with
4 respect to employers, for the purposes of Article 2, "religion"
5 has the meaning ascribed to it in paragraph (F) of Section
6 2-101.

7 (O) Sex. "Sex" means the status of being male or female.

8 (O-1) Sexual orientation. "Sexual orientation" means
9 actual or perceived heterosexuality, homosexuality,
10 bisexuality, or gender-related identity, whether or not
11 traditionally associated with the person's designated sex at
12 birth. "Sexual orientation" does not include a physical or
13 sexual attraction to a minor by an adult.

14 (P) Unfavorable Military Discharge. "Unfavorable military
15 discharge" includes discharges from the Armed Forces of the
16 United States, their Reserve components or any National Guard
17 or Naval Militia which are classified as RE-3 or the equivalent
18 thereof, but does not include those characterized as RE-4 or
19 "Dishonorable".

20 (Q) Unlawful Discrimination. "Unlawful discrimination"
21 means discrimination against a person because of his or her
22 race, color, religion, national origin, ancestry, age, sex,
23 marital status, disability, military status, sexual
24 orientation, or unfavorable discharge from military service as
25 those terms are defined in this Section.

26 (Source: P.A. 94-803, eff. 5-26-06; 95-392, eff. 8-23-07;

1 95-668, eff. 10-10-07; 95-876, eff. 8-21-08; revised
2 10-28-08.)

3 (775 ILCS 5/2-103.5 new)

4 Sec. 2-103.5. Blanket restrictions based on conviction
5 record.

6 (A) Violation. Unless otherwise authorized by law, it is a
7 civil rights violation for any employer, employment agency, or
8 labor organization to refuse to hire a qualified ex-offender
9 solely because the qualified ex-offender has previously been
10 convicted of one or more criminal offenses, or by reason of a
11 finding of lack of good moral character when the finding is
12 based solely upon the fact that the qualified ex-offender has
13 previously been convicted of one or more criminal offenses,
14 unless:

15 (1) there is a direct relationship between one or more
16 of the previous criminal offenses and the employment
17 sought;

18 (2) the granting of the employment would involve an
19 unreasonable risk to property or to the safety or welfare
20 of specific individuals or the general public; or

21 (3) the qualified ex-offender is not bondable under a
22 standard fidelity bond or an equivalent bond where such
23 bondability is required by state or federal law,
24 administrative regulation, or established business
25 practice of the employer.

1 (B) Factors to be considered in making an employment
2 determination. It is appropriate for an employer, employment
3 agency, or labor organization to consider the following factors
4 in making an employment decision relating to a person who has a
5 criminal record:

6 (1) the public policy of this State, as expressed in
7 this Act, to encourage the employment of persons previously
8 convicted of one or more criminal offenses;

9 (2) the specific duties and responsibilities
10 necessarily related to the employment sought;

11 (3) the bearing, if any, the criminal offense or
12 offenses for which the person was previously convicted will
13 have on his or her fitness or ability to perform one or
14 more such duties or responsibilities;

15 (4) the time which was elapsed since the occurrence of
16 the criminal offense or offenses;

17 (5) the age of the person at the time of occurrence of
18 the criminal offense or offenses;

19 (6) the seriousness of the offense or offenses;

20 (7) any information produced by the person, or produced
21 on his or her behalf, in regard to his or her
22 rehabilitation and good conduct;

23 (8) the legitimate interest of the employer; and

24 (9) certification of relief from disabilities or a
25 certificate of good conduct issued to the ex-offender.

26 (C) Misrepresentation or concealment of criminal

1 background. The prohibition against the use of a conviction
2 record contained in this Section shall not be construed to
3 prohibit an employer, employment agency, or labor organization
4 from terminating or denying employment to an individual who
5 intentionally misrepresented or concealed his or her history of
6 criminal convictions to the employer, employment agency, or
7 labor organization where the criminal records have not been
8 sealed or expunged by order of court.

9 (D) Exceptions. Nothing in this Section shall be deemed to:

10 (1) conflict with or affect the application of security
11 regulations or rules in employment established by the
12 United States, the State of Illinois, or local government;
13 nor

14 (2) prohibit or prevent any financial institution, in
15 which deposits are insured by a federal agency having
16 jurisdiction over the financial institution, from denying
17 employment to or discharging from employment any person who
18 has been convicted of any criminal offense involving
19 dishonesty or a breach of trust, unless it has the prior
20 written consent of the federal agency having jurisdiction
21 over the financial institution to hire or retain the
22 person.